

SF 2316 (LSB 5979SV (~~2~~5) 86)

~~SENATE FILE 2316~~

~~BY COMMITTEE ON APPROPRIATIONS~~

~~(SUCCESSOR TO SSB 3182)~~

**~~A BILL FOR~~**

~~An Act relating to the collection of delinquent court debt and associated  
installment agreements.~~

RELATING TO THE COLLECTION OF DELINQUENT COURT DEBT AND ASSOCIATED INSTALLMENT  
AGREEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. ~~Section 96.11, subsection 6, paragraph b, subparagraph (3), Code 2016, is amended to read as follows:~~

~~(3) Information obtained from an employing unit or individual in the course of administering this chapter and an initial determination made by a representative of the department under section 96.6, subsection 2, as to benefit rights of an individual shall not be used in any action or proceeding, except in a contested case proceeding or judicial review under chapter 17A. However, the department shall make information, which is obtained from an employing unit or individual in the course of administering this chapter and which relates to the employment and wage history of the individual, available to a county attorney for the county attorney's use in the performance of duties under section 331.756, subsection 5, or section 602.8107, or to the private collection designee under contract with the judicial branch for the private collection designee's performance of duties under section 602.8107. The department shall make such information electronically accessible to the county attorney at the county attorney's office, if requested, provided the county attorney's office pays the cost of the installation of the equipment to provide such access, or to the private collection designee under contract with the judicial branch at the private collection designee's office, if requested, provided the private collection designee pays the cost of the installation of the equipment to provide such access. Information in the department's possession which may affect a claim for benefits or a change in an employer's rating account shall be made available to the interested parties. The information may be used by the interested parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim. Sec. 2. Section 321.210B, subsection 1, Code 2016, is amended to read as follows:~~

1. a. If a person's fine, penalty, surcharge, or court cost is deemed delinquent as provided in section 602.8107, subsection 2, and the person's driver's license has been suspended pursuant to section 321.210A, or the clerk of the district court has reported the delinquency to the department as required by section 321.210A, the person may execute an installment agreement as defined in section 602.8107 with the county attorney, the county attorney's designee, or the private collection designee under contract with the judicial branch pursuant to section 602.8107, subsection 5, to pay the delinquent amount and the civil penalty assessed in subsection 7 in installments. Prior to execution of the installment agreement, the person shall provide the county attorney, the county attorney's designee, or the private collection designee with a financial statement in order for the parties to the agreement to determine the amount of the installment payments.

b. Cases involving court debt assigned to a county attorney, a county attorney's designee, or the private collection designee shall remain so assigned.

Sec. ~~3-2~~2. Section 321.210B, subsection 5, Code 2016, is amended to read as follows:

5. Upon receipt of the report from the clerk of the district court and payment of the reinstatement fee as provided in section 321.191, the department shall terminate the suspension if the suspension has not yet become effective. If the suspension has become effective, the department shall immediately reinstate the driver's license of the person unless the driver's license of the person is otherwise suspended, revoked, denied, or barred under another provision of law.

Sec. 3. Section 321.210B, subsection 8, Code 2016, is amended to read as follows:

8. a. ~~Upon~~ Except as provided in paragraph "b", upon determination by the county attorney, the county attorney's designee, or the private collection designee that the person is in default, the county attorney, the county attorney's designee, or the private collection designee shall notify the clerk of the district court.

b. (1) If the person is in default and the person provides a new financial statement within fifteen days of the determination made pursuant to paragraph "a" indicating that the person's financial condition has changed to such an extent that lower installment payments would have been required prior to the execution of the initial installment agreement under subsection 1, the county attorney, the county attorney's designee, or the private collection designee shall not notify the clerk of the district court, and the person shall not be considered in default. The new installment payments shall be based upon the new financial statement filed in compliance with this subparagraph.

(2) A person making new installment payments after complying with the provisions of subparagraph (1) shall not be considered executing a new installment agreement for purposes of calculating the number of installment agreements a person may execute in a person's lifetime under subsection 13.

Sec. 4. Section 321.210B, subsection 12, Code 2016, is amended by striking the subsection.

Sec. 5. Section 602.8107, subsection 3, paragraphs a and c, Code 2016, are amended to read as follows:

a. Thirty days after court debt has been assessed and full payment has not been received, or if an installment payment is not received within thirty days after the date it is due, the judicial branch shall assign a case to the private collection designee under contract with the judicial branch pursuant to subsection 5 to collect debts owed to the clerk of the district court, unless the case has been assigned to the county attorney under paragraph "c".

c. ~~If~~ Thirty days after court debt has been assessed and full payment has not been received, or if an installment payment is not received within thirty days after the date it is due, and if a county attorney has filed with the clerk of the district court a notice of full commitment to collect delinquent court debt pursuant to subsection 4, the ~~court debt in a case shall be assigned after sixty days to the county attorney as provided in subsection 4, if the court debt in a case is not part of an installment agreement with the private collection designee under contract with the judicial branch pursuant to subsection 5.~~ The judicial branch shall assign cases with delinquent court debt to a county attorney in the same format and with the same frequency as cases with delinquent court debt are assigned to the private collection designee under paragraph "a", and a county attorney shall not be required to file an individual notice of full commitment to collect delinquent court debt for each assigned case. If the county attorney or the county attorney's designee, while collecting delinquent court debt pursuant to subsection 4, determines that a person owes additional court debt for which a case has not been assigned by the judicial branch, the county attorney or the county attorney's designee shall notify the clerk of the district court of the appropriate case numbers and the judicial branch shall assign these cases to the county attorney for collection if the additional court debt is delinquent.

Sec. 6. Section 602.8107, subsection 4, Code 2016, is amended to read as

follows:

4. *County attorney collection.* The county attorney or the county attorney's designee may collect court debt ~~sixty days~~ after the court debt is deemed delinquent pursuant to subsection 2. In order to receive a percentage of the amounts collected pursuant to this subsection, the county attorney must first file annually with the clerk of the district court on or before July 1 of the first year the county attorney collects court debt under this subsection, a notice of full commitment to collect delinquent court debt, and a memorandum of understanding with the state court administrator for all cases assigned to the county for collection by the court. The ~~annual~~ notice shall contain a list of procedures which will be initiated by the county attorney. For a county attorney filing a notice of full commitment for the first time, the cases involving delinquent court debt previously assigned to the private collection designee shall remain assigned to the private collection designee. Cases involving delinquent court debt assigned to the county attorney after the filing of a notice of full commitment by the county attorney shall remain assigned to the county attorney. A county attorney who chooses to discontinue collection of delinquent court debt shall file with the clerk of the district court on or before May 15 a notice of the intent to cease collection of delinquent court debt at the start of the next fiscal year. If a county attorney ceases collection efforts, or if the state court administrator deems that a county attorney collections program has become ineligible to collect as specified in paragraph "f", all cases involving delinquent court debt assigned to the county attorney shall be transferred on July 1 to the private collection designee for collection, except that debt associated with any existing installment agreement shall remain assigned to the county for collection unless an installment payment becomes delinquent, after which the delinquent debt associated with the installment agreement shall be transferred promptly to the private collection designee for collection.

a. This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, the criminal penalty surcharge, sex offender civil penalty, drug abuse resistance education surcharge, the law enforcement initiative surcharge, county enforcement surcharge, amounts collected as a result of procedures initiated under subsection 5 or under section 8A.504, or fees charged pursuant to section 356.7.

b. Amounts collected by the county attorney or the county attorney's designee shall be distributed in accordance with paragraphs "c" and "d".

c. (1) ~~Forty~~ Twenty-eight percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required by this subsection, unless the county attorney has discontinued collection efforts on a particular delinquent amount.

(2) The remaining ~~sixty~~ seventy-two percent shall be paid to the clerk of the district court each fiscal year for distribution under section 602.8108. However, if such amount, when added to the amount deposited into the general fund of the county pursuant to subparagraph (1), exceeds the following applicable threshold amount, the excess shall be distributed as provided in paragraph "d":

(a) For a county with a population greater than one hundred fifty thousand, an amount up to ~~five hundred thousand~~ one million dollars.

(b) For a county with a population greater than one hundred thousand but not more than one hundred fifty thousand, an amount up to ~~four~~ six hundred thousand dollars.

(c) For a county with a population greater than fifty thousand but not more than one hundred thousand, an amount up to ~~two hundred fifty~~ three hundred thousand dollars.

(d) For a county with a population greater than twenty-six thousand but not more than fifty thousand, an amount up to one hundred thousand dollars.

(e) For a county with a population greater than fifteen thousand but not more than twenty-six thousand, an amount up to fifty thousand dollars.

(f) For a county with a population equal to or less than fifteen thousand, an amount up to twenty-five thousand dollars.

~~d. Any additional moneys collected by an individual county after the distributions in paragraph "c" shall be distributed by the state court administrator as follows: forty percent of any additional moneys collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county where the moneys were collected; twenty percent of the remaining sixty percent collected by the county attorney or the person procured or designated by the county attorney. After the total collected by a county attorney exceeds the threshold amount set in paragraph "c", and for the remainder of the fiscal year, five percent of the additional moneys collected shall be deposited with the office of the county attorney that collected the moneys; twenty-eight percent of the additional moneys collected shall be deposited in the general fund of the county where the moneys were collected; and the remainder remaining sixty-seven percent of the additional moneys shall be paid to the clerk of the district court for distribution under section 602.8108 or the state court administrator may distribute the remainder under section 602.8108 if the additional moneys have already been received by the state court administrator.~~

e. (1) A county may enter into an agreement pursuant to chapter 28E with one or more other counties for the purpose of collecting delinquent court debt pursuant to this subsection.

~~(2) Notwithstanding paragraph "c", if a county subject to the threshold amount in paragraph "c", subparagraph (2), subparagraph division (e) or (f) enters into such an agreement exclusively with a county or counties subject to the threshold amount in paragraph "c", subparagraph (2), subparagraph division (e) or (f), the threshold amount applicable to all of the counties combined shall be a single threshold amount, equal to the threshold amount attributable to the county with the largest population. When a county enters into a chapter 28E agreement with another county or counties to collect delinquent court debt, the county or the county debt collection designee must collect an amount of delinquent court debt that originated in the county and that is equal to the applicable threshold amount under paragraph "c" in order for the county to qualify for distribution of moneys collected by county attorneys under paragraph "d".~~

~~f. Beginning July 1, 2010 2017, and every fiscal year thereafter, amounts collected and distributed pursuant to this subsection shall be equal to or greater than twenty-five thousand dollars for each county or twenty-five thousand dollars in the aggregate for counties that have entered into an agreement pursuant to chapter 28E. If a county, or counties that have entered into a chapter 28E agreement, fails to meet the minimum threshold established in this paragraph, the county, or counties under the chapter 28E agreement, shall be within two years of beginning to collect delinquent court debt, a county attorney shall be required to collect one hundred percent of the applicable threshold amount specified in paragraph "c". If a county attorney collects more than eighty percent but less than one hundred percent of the applicable threshold amount, the state court administrator shall provide notice to the county attorney specifying that in order to remain eligible to participate in the county attorney collection program, the county attorney must collect at least one hundred twenty-five percent of the applicable threshold amount by the end of the next fiscal year. If a county attorney who has been given such a notice fails to collect one hundred twenty-five percent of the applicable threshold amount, the state court administrator shall provide notice to the county attorney that the county is ineligible to participate in the county attorney collection program for the following next two fiscal year years and all existing and future court cases with delinquent court debt shall be assigned to the private collection designee. In the event a county is ineligible to collect under this program, the county may apply to the state debt coordinator established in section 421C.1 to reenter the program following the fiscal year of ineligibility. The provisions of this paragraph apply to all counties, including those counties where~~

delinquent court debt is collected pursuant to a chapter 28E agreement with one or more counties.

Sec. 7. STATE AUDITOR ---- REPORT. The state auditor shall review the collection rate for each county that has filed a notice of full commitment to collect delinquent court debt, and file a report of the results of the review with the general assembly by January 1, 2018. Additionally, the state auditor shall distribute the report to the judicial branch and to each county attorney who has filed a notice of full commitment to collect delinquent court debt.

Sec. 8. TEMPORARY PROVISION FOR COUNTY COLLECTION PROGRAMS. Notwithstanding the amendment to section 602.8107, subsection 4, paragraph "f", in this Act, the provisions of section 602.8107, subsection 4, paragraph "f", Code 2016, apply to individual counties or counties entering into a chapter 28E agreement until June 30, 2017.

**EXPLANATION**

~~The inclusion of this explanation does not constitute agreement with~~

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PAM JOCHUM

President of the Senate

Compare

LINDA UPMEYER

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2316, Eighty-sixth General Assembly.

MICHAEL E. MARSHALL

Secretary of the Senate

Approved \_\_\_\_\_, 2016

Compare

TERRY E. BRANSTAD

~~the explanation's substance by the members of the general assembly.~~

~~— This bill relates to the collection of delinquent court debt and associated installment agreements.~~

~~— The bill allows a private collection designee under contract with the judicial branch to access certain employment information obtained by the department of workforce development in order to collect delinquent court debt.~~

~~— The bill specifies that delinquent court debt assigned to a county attorney or to the private debt collection designee shall remain with the collection entity collecting the debt.~~

~~— The bill permits a person to execute an installment agreement with the county attorney or a private collection designee if the clerk of the district court has reported the delinquency to the department of transportation. The bill provides that if a person pays the reinstatement fee to obtain a driver's license pursuant to Code section 321.191, the department of transportation shall terminate the driver's license suspension even if the suspension has not yet become effective.~~

~~— The bill strikes Code section 321.210B(12) prohibiting a fine, penalty, surcharge, or court cost contained in an installment agreement that is in default from being placed in a new installment agreement.~~

~~— The bill modifies the distribution formula when a county attorney collects delinquent court debt.~~

~~— The bill provides that a county attorney may begin collecting delinquent court debt 30 days after the court debt is assessed and payment has not been received, if the county attorney has filed a one-time notice of full commitment to collect delinquent court debt with the clerk of the district court. Current law provides that a county attorney may begin collecting delinquent court debt 60 days after the court debt is deemed delinquent, and if the county attorney files a notice of commitment to collect delinquent court debt on an annual basis with the clerk of the district court.~~

~~— The bill requires that cases involving court debt be assigned to the county attorney in the same format and with the same frequency as cases with delinquent court debt are assigned to the private debt collection designee. If the county attorney, or the county attorney's designee, determines that a person has additional delinquent court debt for which a case has not been assigned by the judicial branch, the county attorney or the county attorney's designee shall notify the clerk of the district court of the appropriate case numbers and the judicial branch shall assign these cases to the county attorney for collection if the additional court debt is delinquent.~~

~~— The bill requires the county attorney to also file a memorandum of understanding with the state court administrator for all cases assigned to the county attorney for collection by the court.~~

~~— The bill provides that for a county attorney filing a notice of full commitment for the first time, the cases with delinquent court debt previously assigned to the private collection designee shall remain assigned to the private collection designee. Cases with delinquent court debt assigned to the county attorney after filing a notice of full commitment by the county attorney shall remain assigned to the county attorney.~~

~~— The bill provides that a county attorney who chooses to discontinue the collection of delinquent court debt shall file with the clerk of the district court on or before May 15 a notice of the intent to cease collection at the start of the next fiscal year. If a county ceases collection efforts under the bill, or if the state court administrator deems that a county attorney collections program has~~



~~become ineligible to collect delinquent court debt, all delinquent court debt shall be transferred on July 1 to the private collection designee for collection, except court debt in any existing installment agreement remains with the county for collection unless the installment payment becomes delinquent, after which all the remaining delinquent court debt associated with the installment agreement must be transferred promptly to the private collection designee for collection.~~

~~— The bill and current law provide that the county attorney is not eligible to retain certain court debt specified in Code section 602.8107(4)(a). Code section 602.8107(2)(c) continues to govern the prioritized application of court debt receipts.~~

~~— The bill and current law provide for a two-tier distribution formula if a county attorney decides to collect delinquent court debt. Current law and the bill provide for one distribution formula to the county and the state when the county attorney collects below a certain threshold dollar amount and a different distribution formula when a county attorney exceeds that certain threshold dollar amount. The bill makes three major changes to the county attorney court debt collection formula.~~

~~— First, the bill requires 28 percent of the distributable amount of court debt collected by the county attorney to be deposited into the county general fund. Current law requires 40 percent of the distributable amount of court debt collected by the county attorney to be deposited into the county general fund. Current law and the bill provide that the remaining court debt not deposited into the county general fund be paid to the clerk of district court for distribution under Code section 602.8108. Under the bill, this remaining court debt is 72 percent of the distributable amount of court debt and is required to be paid to the clerk of the district court for distribution under Code section 602.8108.~~

~~— Second, the bill changes the threshold dollar amounts that are in place to further incentivize a county attorney to continue collecting delinquent court debt. The threshold dollar amount depends on the population size of the county. The bill changes the threshold dollar amount for a county with a population greater than 150,000 from \$500,000 to \$1 million. The bill changes the threshold dollar amount for a county with a population greater than 100,000 but not more than 150,000 from \$400,000 to \$600,000. The bill changes the threshold dollar amount for a county with a population greater than 50,000 but not more than 100,000 from \$250,000 to \$300,000. The remaining threshold amounts for the less populated counties are not changed by the bill and are specified in Code section 602.8107(4)(c)(2).~~

~~— Third, after a county attorney's collection of delinquent court debt exceeds the threshold dollar amount and for the remainder of the fiscal year, the bill requires 5 percent of the distributable amount of court debt collected by the county attorney to be deposited with the office of the county attorney that collected the debt. Current law requires 12 percent of the distributable amount of court debt to be deposited with the office of the county attorney. In addition to the 5 percent of distributable court debt deposited with the office of the county attorney that collected the debt, the bill requires 28 percent of the distributable amount of court debt collected by the county attorney after exceeding the threshold dollar amounts to be deposited into the county general fund. Current law requires 40 percent of such debt to be deposited into the county general fund. Current law and the bill requires the remaining court debt not deposited into the county general fund be paid to the clerk of district court for distribution under Code section 602.8108. Under the bill, after exceeding the threshold dollar amount, 67 percent of the court debt remains to be paid to the clerk of the district court for distribution under Code section 602.8108.~~

~~— The bill provides that any county that enters into a Code chapter 28E agreement with another county or counties to collect delinquent court debt, must collect an amount in excess of the applicable threshold dollar amount for that particular county in order to qualify for the second tier of the distribution formula and the 5 percent distribution to the office of the county attorney. The bill specifies that Code section 602.8107(4)(f), Code 2016, governs individual counties entering~~

~~into Code chapter 28F agreements to collect delinquent court debt until June 30, 2017.~~

~~—The bill provides that beginning July 1, 2017, a county attorney shall be required to collect 100 percent of the applicable threshold dollar amount within two years of beginning to collect delinquent court debt. The bill provides that if the county attorney collects more than 80 percent but less than 100 percent of the applicable threshold dollar amount, the state court administrator shall provide notice to the county attorney specifying that in order to remain eligible to participate in the county attorney collection program, the county attorney must collect at least 125 percent of the applicable threshold amount by the end of the next fiscal year. If after a county attorney who has been given such a notice fails to collect 125 percent of the applicable threshold amount, the state court administrator shall provide notice to the county attorney that the county attorney is ineligible to participate in the county attorney collection program for the next two fiscal years.~~

~~—The bill strikes a reference to the state debt coordinator in repealed Code section 602.8107(4)(f). The coordinator was never appointed.~~

~~—The bill requires the state auditor to review the collection rate for each county that has filed a notice of full commitment to collect delinquent court debt, and file a report of the results of the audit with the general assembly by January 1, 2018. The bill requires the state auditor to also distribute such report to the judicial branch and to each county attorney who has filed a notice of full commitment to collect delinquent court debt.~~

Governor

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